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COLONIAL LEGISLATURE.

HOUSE OF ASSEMBLY.

TUESDAY, April 12.

Mr. BECK, from the Committee of the whole House, on the consideration of the State of the Colony, reported, according to order, the Resolutions of the said Committee, viz:—

1. RESOLVED, That it is the opinion of this Committee, that they see no reason to depart from any of the Resolutions, as to the State of the Colony, passed in the Session of 1839, 1840, 1841, nor from any of the representations contained in the Addresses forwarded to the Colonial Secretary and the House of Commons in those years.

2. Whereas Lord John Russell, Her Majesty's Principal Secretary of State for the Colonies, in a Despatch to Sir Charles A. Fitz Roy, bearing date the 25th June, 1841, contains a conclusion to which Her Majesty's Government has come, in reference to the question of Escheat, viz: that the original terms of settlement were impracticable, and that any Escheat at the present day, on the ground of the failure to fulfil the conditions in the original Grants, would be unjust—which said conclusion is in direct contradiction to the statements made by the House of Assembly in 1797—to the admission contained in Lord Hobart's Despatch in answer thereto, dated in 1802—to the Act of the Legislature in 1803, passed as recommended by the said Despatch of 1802, the disallowance of which has never yet been satisfactorily accounted for—to the Resolutions of the House of Assembly in 1805—to the proceedings taken by Government against Townships 15 and 55, in 1816—to the Despatch of the Earl of Bathurst, with the Prince Regent's Proclamation of 1818, granting an Indulgence to the Grantees and Proprietors for Ten years from 1816, allowing the Lands to be settled by British subjects in the same proportion as originally intended, with Foreign Protestants—to the actual state of the Population in several Townships at the expiration of the said Indulgence in 1827—to the opinions of the Crown Officers in 1832, taken by the then House of Assembly—to the Act of 1833, intitled *An Act to encourage the settlement and improvement of Lands in this Island, and to regulate the proceedings of a Court of Escheats therein*, which Act was disallowed, not because the terms of settlement were impracticable, but because the said Act might fetter His Majesty in the free exercise of His Royal Prerogative—to the reasons given for passing the several Acts for levying an Assessment on all Lands—to the Report of the Earl of Durham to the Imperial Parliament in 1839—to the admission in the Despatch of Lord Stanley, Lord Goderich, and Lord Glenelg, from 1831 to 1840,—and to the published admission of Governors Fanning, Smith, Ready, Young, Harvey and Fitz Roy—to the practice pursued in the old Colonies, and in the neighbouring, and also stated to be pursued in the Australian Colonies—to Lord John Russell's own opinion at one time, which he states to be, that the question at issue "was a public question, and as such must be treated"—and to evidence taken by and within the knowledge of this House: Therefore, the House of Assembly consider the said opinion, contained in Lord John Russell's Despatch, of the 25th June, to be singular, unsupported by evidence, and in direct opposition to the various statements and opinions above referred to.

3. Whereas it appears by a Despatch laid before this House, dated Downing-street, 25th June, 1841, that the Right Honourable Lord John Russell, Her Majesty's late Principal Secretary of State for the Colonies, is of opinion, "that the original terms of settlement were impracticable, and that any Escheat at the present day, on the ground of the failure to fulfil such conditions, would be unjust." RESOLVED, That the House of Assembly have not desired an Escheat solely on the grounds of the failure to fulfil the original terms of settlement, but principally on account of the exorbitant Rents demanded by the Proprietors, which absorb the labour and capital invested by the Tenant in the improvement of the Land; and it would be unjust to allow the Proprietors to claim such property through their failure to fulfil their conditions. The true value of the Grants to which the Proprietors have any right in equity can be estimated only when connected with the apparent expense and difficulty attending the performance of the original conditions for settlement, and any delay of the Executive to enforce the forfeiture of the Grants, when such conditions were not performed, or to release the Grantees from said conditions, and authorize them to introduce British Subjects instead of Foreign Protestants, has given a new value and construction to the Grants—the amount of such enhanced value being in proportion to the prices or terms the respective Grantees or Proprietors have let or disposed of the Land to Immigrants, which new value is abstracted from the Colony generally, but from British subjects individually; and as the land is let far above its value, the labour and capital in improving it becomes the property of the Proprietor, while, on the other hand, the non-settlement with Foreign Protestants held out a fair prospect to British subjects emigrating to the Colonies that the lands would be revested in the Crown, and that such Immigrants would be settled in the same manner as Government have settled them in the other Colonies.

4. RESOLVED, That the terms proposed by Mr. George R. Young were rejected unanimously by the House of Assembly, as unworthy of being recommended by the Government, or accepted by the People.

5. And whereas the said last Despatch recommends it as Her Majesty's desire, that the Assembly and Council should "turn their attention to the improvement of the resources, and the encouragement of the growing wealth of Prince Edward Island, and leave to the gradual operation of time the settlement of a question which affords no sound footing for direct Legislation." RESOLVED, That where public wrongs disturb the minds of a people, and thus retard the prosperity of a Colony, it is the duty of the House of Assembly respectfully to represent it to Her Majesty, and seek redress; and the wrongs of this Colony may be briefly stated as follows: The Land of this Island was let in its wilderness state to British subjects, without any improvement, at a rent far above the interest of the fee-simple value of the Land, as stated in the 3d and 4th Resolutions of 1839, and those of the 24th April, 1841, and many of the Tenantry are greatly in arrears for rent, which they are unable to pay, much less to redeem their improvements at the Proprietors' terms by the purchase of the fee-simple. And the practice of adding the arrears of Rent to the fee-simple, and demanding interest as rent, or taking the Tenant's bond on interest for such arrears, is most discouraging to the Tenant, and renders it utterly hopeless for the Tenant to derive any benefit from his improvements. The Grantees have also exercised an ownership over the lands reserved in the Crown for the Fisheries, and have let the same on rent, together with the Township lands; and Immigrants, on their arrival, had to become Tenants, to procure a location where they could fish for their subsistence; and when the improvements (which is the growing wealth of Prince Edward Island) are assumed by the Proprietors under such practices, to leave to the gradual operation of time the settlement of a question of such vast importance to the happiness of the people and the prosperity of the Colony, would discourage industry, render property insecure, and bring the justice of Her Majesty's Government into disrepute.

6. RESOLVED, That the House of Assembly have not sought an advance of money from the Imperial Revenue, to purchase the Lands* from the Proprietors, to enable the Crown to sell or regrant the same to the Tenants; but from a desire to settle the Tenantry and occupants of Land. The House of Assembly passed a Bill for that purpose in the Session of 1839, which was rejected by Ministers, on the ground that it embraced the principle of Escheat; and in the Sessions of 1840 and 1841, the House of Assembly passed another Bill, which went to rest the lands in the Crown, and to settle the Tenants and occupants thereon, on their paying the full price of Wilderness land, for such quantity as they held under lease or occupation—which price, together with a Land Tax, was placed at the disposal of the Crown, to award to the respective Proprietors such portion of the said sum as Her Majesty might be advised to grant in equity as the value of the Grants, and for any expense or loss the Proprietors might sustain.

7. RESOLVED, That the Despatch laid before the House of Assembly in 1841, states, that the settlement of the Tenantry must be treated as a public question; and the Despatch laid before the House this present Session, in reference to the same question, concludes, that it offers no sound footing for direct Legislation, which vacillating Despatches are prejudicial to the Colony, and operate on the hopes and fears of a numerous class of persons, who have improved the lands of this Colony, and stand in jeopardy of being deprived of their improvements.

8. RESOLVED, That whatever injustice may attend an Escheat at the present day, on the ground of the failure to fulfil the conditions for settlement, proceeds from the vacillating Despatches received from time to time from the Secretaries of State for the Colonies. A Despatch from Lord Hobart, in the year 1802, recommended the Legislature of this Island to pass a Bill for the regulation of a Court of Escheat, which was passed accordingly, but afterwards suppressed, through some undue influence; and, in the year 1816, a Despatch from the Earl of Bathurst went to release the Grantees from the performance of the conditions of their Grants; and when the Right Honourable Lord John Russell, Her Majesty's late Secretary of State for the Colonies, discourages all such legislation in this Island as would settle the inhabitants, it becomes necessary to pray Her Majesty to lay the unsettled state of this Colony before the Imperial Legislature, and recommend to their consideration to pass an enactment to authorize the Crown to appoint Commissioners from the Province of New Brunswick and Nova Scotia—men whose experience in the practice of settling the lands in those Provinces would enable them to make an appraisal; to find the original fee simple value of the land in its wilderness state; and also the value thereof in its improved state; and to settle the inhabitants in this Colony in such a manner, that while the Government may deem it just to award to the Proprietors the fee simple value of the land in its wilderness state, or the interest thereof as a rent, it appears equally just and reasonable that those who have cleared and improved the land, and erected the buildings thereon at their own cost and labour, should be secured in the value of their improvements.

9. RESOLVED, That while the Law for revesting forfeited Lands in the Crown is suspended in this Colony, and the Law for the recovery of Rents for such lands is carried into operation, giving the Proprietors of forfeited Grants an undue claim to recover Rent, and also the improvements made upon those lands by persons who were to have been settled, there is no expectation that such Proprietors will consent to relinquish such claims, or submit to an equitable arrangement, as recommended in the foregoing Resolutions, unless the Government is prepared (in the event of the Proprietors' refusal) to institute proceedings by a Court of Escheat, to re-vest the forfeited Lands in the Crown, and settle the inhabitants.

10. RESOLVED, That it is a subject of complaint in this Colony, that the Grantees or Proprietors of the Township Lands have been suffered to exercise acts of ownership over the Lands for the Fisheries, including them in their Leases to the Tenants, or otherwise having disposed of the fee simple with the land in the rear thereof; and immigrants on their arrival to settle in this Colony, had either to purchase or to pay rent for such reservations, before they could obtain a location where they could fish for their subsistence—whereby the Grantees or Proprietors have obtained large sums of money, to the loss of the inhabitants and the Colony; whereas the late Lieutenant Governor, Sir Charles A. Fitz Roy, in the Session of 1839, by Message, laid before the House of Assembly certain Despatches relating to the Lands reserved for the Fisheries, setting forth that it was the determination of Her Majesty's Government to throw open the Reserves to all British subjects engaging in the Fisheries, and suggesting to the House of Assembly the propriety of passing such Laws as might be necessary "for preventing improvident and injurious practices in carrying them on," as recommended by Her Majesty's Secretary of State for the Colonies.

11. RESOLVED, That the House of Assembly have, in the Sessions of 1839, 1841, and 1842, passed Bills for the regulation of the Reserves, to afford every facility for carrying on the Fisheries; but as the persons located upon these Reservations had cleared and improved the same, and in most cases have erected their Dwelling Houses and other Buildings thereon, and have either purchased the fee simple thereof, or paid Rents for such Reservations to the Proprietors of the adjoining Townships, the House of Assembly provided in their Bills that the persons who cleared the land, or were entitled to the improvements, should be quieted in their possessions; but the Council virtually rejected the said Bills, by their amendments thereto—which amendments went to exclude the fishermen, not only from all Bays and Harbours, but also from parts of the Out-sea coast, and to give the fee simple to the Proprietors of the Townships in the rear of the Fishery Reserves.

12. RESOLVED, That every indulgence that has been given to the Proprietors, from time to time, has been at the expense of the Tenantry; that when the Imperial Government reduced the Quit Rents, at the desire of the Grantees, they were increasing the Rent upon the Tenantry; and when the Despatch from Earl Bathurst went to release the Grantees from the settlement of their Grants with Foreign Protestants, the Grantees, through such indulgence, imposed terms of settlement upon British subjects far less favourable than any settlement practised in the British Colonies; that when the late Secretary of State for the Colonies declined to authorize the appointment of a Court of Escheat, and declared that it would be unjust to divest the Proprietors of the Land, the Proprietors were and are thereby encouraged to distress and deprive the Tenants of their improvements; and every indulgence given to the Proprietors emboldens them still further to oppress the Tenants; that as the House of Assembly knew that the Fishery Reserves were the most desirable for the location of immigrants, for the convenience of fishing, and that such lands were the first brought into cultivation, and together with the fishery, were the principal sources from which the Tenant could pay rent—which rent the Proprietors have received since the first colonization of this Island—therefore, there could be no injustice done to the Proprietors of the Township Lands to pass a Law to quiet the Tenant in the possession of such portion of the Reserves as he has cleared and brought into cultivation at his own cost and labour—subject

nevertheless to the original conditions of being open to the fisheries.

13. RESOLVED, That while the Proprietors are allowed to demand and recover Rent for the Lands reserved for the Fisheries, or to dispose of them in fee simple, it operates as a reward to the Proprietors to defeat any Law being made for the regulation of the Fishery Reserves, or for the settlement of the inhabitants of this Colony; and that therefore it is respectfully submitted to the Government, that it is necessary that the Government should, without delay, institute proceedings for the recovery of such Rents or purchase-money from the Grantees, their Heirs and Assigns, as have been received by them, and to order such regulations as shall make said Reserves available in future for the purposes for which said lands were reserved.

14. RESOLVED, That the Land Assessment imposed by an Act passed in 1837, for ten years, has been of no service whatever, to induce the Proprietors to settle the present Tenantry and occupants, or to settle the Wilderness land; but this Tax has released the Proprietors from the payment of a Quit Rent, and often is an additional burthen of Two Shillings, per Hundred Acres, upon the Tenant and occupant; and the Tax of Four Shillings, per Hundred Acres, upon the Proprietors, for Wild Lands, is but an advance of Eight-pence, Sterling, upon a Quit Rent of Two Shillings, Sterling, per Hundred Acres, which the Proprietors are bound to pay—the Four Shillings, currency, being Two Shillings and eight-pence, sterling.

15. RESOLVED, That the rejection by the Legislative Council of the Bill passed by the House of Assembly, for the payment of One Hundred Pounds, Sterling, to the individual whom the Assembly should appoint as their Agent in Great Britain, for the purposes expressed in the preamble to the said Bill, is denying to the Representatives of the people of this Colony the power of appropriating, from the funds received from the people, a sum which, thus applied, was likely to be of the most material service to the people, and is barring them from the means of employing an efficient individual to act for them in Great Britain, at the time when the Petition of the House of Assembly is pending before the House of Commons, and when those of whose procedure the people of this Colony complain have an organized system and agency in Britain, actively engaged in counteracting the views and injuring the interests of the people of this Colony.

16. RESOLVED, That it is the opinion of this Committee, that an humble Address be prepared to Her Majesty, praying that out of the unappropriated funds now or hereafter to be paid into the Treasury of this Island, arising from the Sale of Crown Lands, Her Majesty will be graciously pleased to allow the sum of Five Hundred Pounds to be applied, in addition to the sum at present granted by the Colonial Legislature, in the purchase of a piece of ground for the purposes of the contemplated Lunatic Asylum; and also the sum of One hundred and fifty Pounds, to be applied in opening the Georgetown Royalty Roads; and also the sum of One hundred Pounds, to open new Roads throughout, and in the improvement of the communications in Princetown and Royalty.

17. RESOLVED, That while the main interests and resources of this Island depend on the number, industry and wealth of its agricultural population, so long will its prosperity be retarded by any public measure calculated to render insecure the titles to landed estates; to discourage the ingress and settlement of agricultural capitalists, or which may prove to its numerous Tenantry an inducement to withhold the payment of their rents, until their arrears accumulate to a ruinous and irredeemable burthen—which public measures have been supported by the proprietary claimants and their abettors.

18. RESOLVED, That the following Report of the Special Committee be adopted, viz:—

Your Committee have respectfully to submit, that at this late period of the Session, they have not been able to bestow that time which the nature of the subject would require, in order to state, in all particulars, exact amounts; that, after some days, part of the information which they required has not been furnished, owing probably to the pressure of other business in one of the public Offices, and that, in some of its bearings, the Committee could not ascertain, from any authentic record at their command, exact numbers or exact amounts. Under these circumstances, the only course left open to your Committee was to decline reporting, or so to guard their statements as that when exact information was unattainable, they should understate any number or amount which bore against the statements and arguments of the Proprietary claimants, and should, at the same time, overstate any number or amount which was in favour of these claimants. The documents as to arable freehold and leased land, mills, farming stock and crop, Churches, Schools, and the number of the male population liable to statute labour, are all taken from the Census, so far as number, the values only having been affixed by the Committee.

Property of the Townships of Prince Edward Island, by Census of 1841, exclusive of any value which may be put on the claims of the Grantees of Townships and their Assigns, to demand rent.

Cleared, arable, fenced land in Townships,	135,000 Acres, at, for clearing and fencing, per acre, £3 10s.	£472,000
Houses, Barns, &c. of 7000 Farms, erected by the farmers, at £100,		700,000
177 Mills, at £200,		34,000
Roads Bridges and Wharves,		106,000
		£1,312,400

Moveable Property.	
9600 Horses, at £12,	£115,200
40,000 Cattle, at £4,	160,000
70,000 Sheep, at 15s.	52,500
33,000 Hogs, at 25s.	41,250
Agricultural Implements, and Household Furniture of 7000 families, at £40,	280,000
	648,950
	1,961,350

Grain for bread and sowing, &c., one half of what is raised, and the same of potatoes, 107,869

Independent of 3,000 tons of shipping, belonging to individuals on the Townships, 13,500

£2,082,719

Thence deduct as follows:—Of 10,000 Acres, held by sundry proprietary claimants of Townships, for their own Farms, with the same proportion of stock and crop—these 10,000 being 1.59 of the whole land occupied—that is 1.59 of £2,082,719, gives £35,297, and double this, as the buildings and stock of these Farms are much superior to the generality, £70,594

Which deducted, leaves as total capital of the farming population, 2,012,125

Public Buildings on the Townships, raised, with a few exceptions, entirely by the farmers: 19,750

67 Churches, at £250, 16,750

100 School Houses, at £30, 3,000

The above prices are on the supposition, that the farming stock are at the prices they would be sold for in barter, and rather over the cash prices; and were any quantity thrown into the market here, and cash payments required, the price would fall very considerably. The other values are estimated in produce, the work required in performing the same being generally thus paid.

Imports for 1840—Invoiced value, Sterling, £140,000, and which exceeds the Exports by £78,000 Sterling, which deficiency is believed to be nearly made up by the sale of Vessels built in the Colony, and the value whereof is not included in the Custom House statement of Exports, £140,000

On the above invoiced value, add 100 per cent. as the price at which the Goods are sold in the Colony in colonial currency, £140,000

Average of labour or commutation; paid for labour on public Roads by inhabitants, seven-sixths or 9,000 individuals liable to labour, including Teams, £3,350

Proportion of Land Assessment paid by farmers, Salaries to Clergymen and Teachers, and annual Repairs to Churches and Schools, and voluntary subscriptions to Bridges and Wharves, £380

£7,500

£291,130

Shewing that the expenditure of the Colony, independent of Rents, amounts to about 14 per cent. on the capital accumulated chiefly by labour on the land, for the last Seventy years. And in regard to this expenditure your Committee have to remark, that though it may be thought the Colony could dispense with the greater part of some of the articles imported, yet, that it is equally clear, the Colony requires far more of some other articles than is imported, e. g., Iron and Salt, and all ship stores. Your Committee have also to remark, that the quantity of Wheat raised in the Colony affords three bushels for the consumption of every individual; and that your Committee believe the quantity of wheat flour exported from the outports, to be at least, equal to what is imported to Charlottetown. Whereas the average consumption of Wheat in England appears by Colquhoun, folio 416, to be from 4 to 8 bushels per head.

Your Committee also submit, as indicative of the state of the Colony, that the Spanish Dollar, current in the adjoining Provinces at 5s. and 5d. 3d. of their currency, passes here at 6s. of this Island currency, that their One Pound Notes pass here for Twenty-three Shillings; that the British Shilling, which with them varies from 1s. 1d. to 1s. 3d., here passes for 1s. 6d.; and that the temporary employment of agricultural labourers, and the employment of mechanics, would be much circumscribed, were they, in all instances, to refuse to take from their employers the produce of the country, and to insist for money.

Your Committee submit, that the population of this Island appears to have doubled since the year 1827; but that, though this is held by some as an argument of this Island offering advantages superior to the neighbouring Colonies, your Committee cannot agree to the deduction. The number of Immigrants within that period bears a large proportion to the total Population in 1827, for in that year it was 23,000, and last year 2,000 Immigrants arrived; and laying aside this item of account, it may be observed, that some portions of the British dominions, which receive no accession of numbers from abroad, but are every year sending out great numbers of their native population, and are, in spite of such drain, rapidly increasing in amount, are at the same time rather diminishing than increasing in wealth. The exact increase of population, from births among the people resident in this Island in 1827, appears from the Census to be 8,295, or 35 per cent. in fourteen years.

Rent.

Of the land occupied, 300,000 Acres appear from the Census to be under rent. This, on several Townships, is 1s. 6d. and 2s. Sterling, on leases of 42 years—the lessee entering, not on houses and land cleared and fenced, but on wilderness wood-land. On some Townships, the earlier settlers obtained leases at 6d. per acre, for 999 years. In general, the Rent is One Shilling, Sterling, per acre, per annum, and the duration 999 years; and the yearly rent at this date may be calculated at £16,250 currency.

Previous to 1830, no Law existed in the Colony compelling the claimants of Townships to contribute to the expense of making Roads through such Townships. Since that time, a Law was passed compelling them to contribute to the formation (but not to the maintenance) of such Roads as should thereafter be run through the land claimed by them, in so far as a Jury should find that such land was increased in value by said Road; but if deteriorated, then the Treasury had to pay the amount of such deterioration to the claimants of the land. Under this Law, which was put into operation in 1833, verdicts have been given against the claimants of land to the amount of £2,929 and in their favour, as for damages, 351 shewing the balance assessed on them to be—£2,578 (See Return by Prothonotary.)

of which there has been paid, up to the 5th April, 1842, £388, as by search of Committee; stated by the Treasurer at £310.

Thus it appears that the total amount which the Proprietary claimants, as such, have been assessed for Roads, since the Colony received a Legislature, is only one half of what was last year voted by the House of Assembly, in aid of Roads, Bridges, and Wharves, and not more than one-fifteenth of what has, by vote of successive Houses of Assembly, been paid for similar purposes since 1824, and not equivalent to one year of the Statute Labour; and of this small Assessment, only £388 appear to have been paid—a sum not far exceeding the expense to which the country has been put in summoning and paying Juries and Witnesses, &c., to obtain the whole of the verdicts.

As to the sales of land by the claimants of Townships, to actual cultivators, by the Census it would appear that 239,000 Acres are held in freehold; but this was not all sold by these claimants to the farmers, for two Townships, each of 20,000 Acres, were escheated by Governor Smith, and the greater part of these has been granted, in tracts of from 500 to 100 Acres; and much of what was thus granted is now held in freehold by farmers. Of 200,000 Acres which the Proprietary claimants offered in 1782-3 to surrender to Loyalists, a quantity, estimated at 25,000 Acres, is held by Loyalists or their Assigns. One entire Township, No 3, was made over by one claimant to his Creditors, and by them sold in lots of 900 Acres; and at different times individual farmers have purchased small tracts of wilderness land at sales, for arrears of Quit Rent or Land Assessment, due by the Townships. About 7,500 Acres of Glebe and School Lands were sold, in lots not exceeding 130 Acres, and the moieties of Townships 45 and 52, for which moieties (according to the best information your Committee can acquire) no claimants ever appeared, as well as portions of other Townships, which were for many years unclaimed, have been taken up by individuals who, by undisputed possession, for a series of years, have acquired a legal right to the land, and thus may be reckoned amongst the freeholders—so that from the above 239,000 Acres, marked in the Census as held in fee simple, a considerable proportion has not been sold by the claimants of Townships to the farmers thereof, and therefore "the gradual operation of time," recommended by Lord John Russell, appears to your Committee likely to extend to some centuries. As to the value of the claim to the soil of the Island, maintained by the heirs and assigns of the Grantees, about 1,300,000 Acres were granted. Of these, 239,000 are, as above mentioned, now held in fee simple, and this being deducted, leaves 1,061,000 Acres claimed by these Grantees, part of which they have leased; but the greater part is unleased; and of both leased and unleased, the greater part, or at least nine-tenths, is not reclaimed from the state of nature.

Now, 5s. per acre, for wilderness land, may be taken as the outside value thereof, and rather exceeds the average value of sales of Government land in New Brunswick, and this gives the value of this seignioral claim (if valid), at £265,250.

Taking another view of the matter, and referring to the account published in London, about 1807, by Captain John Stewart, and to other accounts, it would appear, that the average market value of a claim to one of the Townships of this Colony, from 1769 to 1800, was about £200, which, for 67 Townships, would give £11,130

Interest on that sum, £175,158

And your Committee, making every deduction, cannot estimate the amount of prices received by the Proprietary Claimants and their Agents, at less than £50,000